



FEDERAL LAW ENFORCEMENT OFFICERS ASSOCIATION

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TESTIMONY OF

ART GORDON
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OF THE
**FEDERAL LAW ENFORCEMENT OFFICERS
ASSOCIATION**

BEFORE THE
**U.S. HOUSE OF REPRESENTATIVES
COMMITTEE ON HOMELAND SECURITY**

**SUBCOMMITTEE ON
MANAGEMENT, INTEGRATION AND OVERSIGHT**

CONCERNING
**THE POSSIBLE MERGER OF US CUSTOMS AND
BORDER PROTECTION (CBP)
AND US IMMIGRATION AND CUSTOMS
ENFORCEMENT (ICE)**

ON
MAY 11, 2006

Chairman Rogers, Ranking Member Meek, and other members of the Subcommittee, I want to thank you for the opportunity to appear before you today, to testify about the need to resolve coordination and communication issues between two important DHS agencies; Immigration and Customs Enforcement, commonly referred to as ICE and Customs and Border Protection, commonly referred to as CBP.

My name is Art Gordon and I am currently the National President of the Federal Law Enforcement Officers Association (otherwise known as FLEOA). FLEOA is the largest non-partisan professional association, exclusively representing Federal law enforcement officers.

I am here today representing over 24,000 Federal agents from over 50 different agencies, including 3,300 special agents (criminal investigators) who work for Immigration and Customs Enforcement (ICE) within the Department of Homeland Security.

All FLEOA National Officers like me are full-time Federal law enforcement officers who conduct FLEOA business on their own time. I am currently a full-time Federal agent serving as an Assistant Federal Security Director for Law Enforcement for the Transportation Security Administration (TSA). I previously spent 29 years as a special agent with the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) before joining TSA in 2004. I am here today on annual leave, representing the members of FLEOA.

In March of 2003, portions of the abolished Immigration and Naturalization Service (INS) and the US Customs Service (USCS) were combined into two separate agencies within DHS: US Immigration and Customs Enforcement (ICE) and US Customs and Border Protection (CBP). These are now the two agencies with primary responsibility for immigration enforcement within the Department of Homeland Security.

It appears that the initial split of border and immigration responsibilities between ICE and CBP during the formation of the Department of Homeland Security was done without any compelling reason, and it was determined that CBP would handle “border enforcement” and ICE would handle “interior enforcement”.

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Over the past two years, we have received many complaints from our members regarding the lack of communication and coordination between ICE and CBP.

I have personally met with DHS Secretary Michael Chertoff, former Under Secretary for Border and Transportation Security Asa Hutchinson and former Assistant Secretary Michael Garcia from Immigration and Customs Enforcement (ICE) on more than one occasion to voice our member's concerns on this serious issue.

Secretary Chertoff has been very receptive to FLEOA and he has assured us that he intends to resolve these problems. He has indicated to FLEOA that the problems can be resolved without merging ICE and CBP.

In order for me and the rest of the FLEOA National Executive Board to better understand the apparent disconnect between ICE and CBP, FLEOA polled our 3,300 ICE special agent members on this issue.

I would like to share the results of our membership survey with you today.

The following problems have been identified by our members:

1. The current Memorandums of Understanding (MOUs) that were intended to dissolve the red tape between ICE and CBP have only served to strengthen it. There are still complaints from ICE agents regarding accessing certain database information that is controlled by CBP. CBP currently controls the TECS (Treasury Enforcement Communications System) database which stores information on ICE case/investigative data. However, CBP does not enter information into this database on their investigative targets, so there is no way for ICE agents to tell if CBP has an open investigation on one of their suspects. This results in dual track investigations and duplication of effort, with little or no coordination.

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2. By separating the police/patrol functions from the investigative component, which is the current case with CBP(police/patrol component) and ICE (investigative component) as separate agencies, it appears that DHS is slowly eroding the ability of ICE agents to build quality informant networks and follow-up on investigative leads developed at the border or points of entry.

The criminal investigators within ICE should be able to rely on timely referrals from the uniform component of CBP, but unfortunately there is a disconnect between the two agencies. It appears that CBP is currently attempting to become self-sufficient in the investigative arena, eliminating any need to work with ICE criminal investigators in the future.

3. The original division of Customs and Immigration Inspectors from their related investigative colleagues (Customs special agents and INS special agents) with the formation of ICE and CBP, may be responsible for building administrative walls, lack of cooperation and lack of information sharing between these two agencies.
4. The flow of information from CBP(police/patrol component) to ICE (investigative component) for investigative follow-up within DHS is very limited and in some cases non-existent.
5. ICE and CBP have law enforcement personnel assigned to all major international airports within the US, but in many cases, there is no coordination or communication between the two agencies, because of the separate chain of command, separate management structure and separate priorities, policies and procedures. However, there is significant overlap on the functions they perform.

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Many of our members have employed the police officer/detective analogy to illustrate the need to get everyone under one roof. As all of you know, in a police department the uniform patrol officer makes the initial contact with the suspect or the crime and it is then followed up by the investigative component, the detective division. Currently with ICE and CBP as separate agencies, our members feel there is a major disconnect between the police/patrol component (CBP) and the investigative component (ICE).

It is important to integrate the talent of ICE and CBP law enforcement personnel into cohesive investigative teams, while maintaining the appropriate chain of command. Criminal investigators should report up the chain of command to senior criminal investigators. We would not advocate a merger that will result in ICE special agents (1811 criminal investigators) reporting to CBP senior officials who do not have any investigative experience.

Possible Alternative to Merger:

A Task Force concept comprised of ICE and CBP personnel in many instances could be an alternative to a total merger of ICE and CBP into one agency at this juncture. For example, a Smuggling Unit in ICE could be comprised of ICE special agents, CBP Inspectors, CBP Patrol Officers and intelligence analysts. However, we still run into the same issue of two separate chains of command, two separate reporting systems, two separate data bases and the question of will ICE or CBP run this task force group.

We believe that the task force concept could be employed by ICE and CBP for smuggling investigations, strategic investigations, fraud investigations and sex crime investigations. The same concept could also be applied at all international airports, where ICE and CBP could be co-located and function as a task force, as US Customs previously did prior to the formation of the Department of Homeland Security.

It should be noted that on April 20, 2006, DHS announced the formation of a new Border Security Enforcement Task Force (BEST) in Laredo, TX and one in Arizona. Additional BEST Task Forces will be formed along the Southwest border. DHS also announced that ICE will form Document and Benefit Fraud Task Forces in 10 major US cities this year.

FLEOA believes that this is truly a step in the right direction by DHS, in resolving these communication and coordination issues.

Recommendations:

In the event that a merger of ICE and CBP were to take place, we recommend that this new entity be restructured as follows:

1. Services Division – Process immigrants who are attempting to enter the country through legal means. Make referrals to the Investigation Division as appropriate.
2. Patrol Division – Arrest and administratively process illegal aliens at the US borders and inland.
3. Investigation Division – Handle all criminal investigative matters. This component would include ICE special agents and CBP senior inspectors (formerly called INS senior inspectors), and intelligence analysts.
4. Detention and Removal Division – Handle all detention and removal of all illegal or criminal aliens. This would include the removal of criminal aliens from State or Federal prison systems.

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At this juncture, FLEOA believes that a restructuring at a minimum within ICE and CBP is necessary, to fix the disconnect between the two agencies.

If it is determined that the only way to resolve these issues is to merge ICE and CBP, then FLEOA would support this merger.

The message from our members is simple and clear. Please fix these problems now!

While the debate on the ICE/CBP merger continues, I call upon DHS Secretary Michael Chertoff, Assistant Secretary Julie Myers (ICE) and Commissioner Nominee Ralph Basham (CBP) to deal with the issues that I have brought forward to this committee today.

My goal as FLEOA National President is to work with the Administration and members of Congress to improve Federal law enforcement. That is why I am here today.

Thank you for allowing me to speak on behalf of the men and women of Federal law enforcement, who put their lives on the line every day to keep our nation safe.

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